

USSN: 10/698,344  
Group Art Unit: 3761  
Docket No.: 151-P-11699US01

## REMARKS

Claims 1 – 6 and 8 – 11 are pending in this application.

Claims 12 – 16 have been canceled.

Claims 6 and 8– 11 have been rejected.

Claims 1 – 5 have been allowed.

### Entry of Amendment

Entry of this amendment is respectfully requested. This amendment complies with the provisions of 37 CFR § 1.116(b) permitting the cancellation of claims. No new search or other analysis by the Examiner is required due to the cancellation of the claims.

### Amendments to the Claims

Claims 12 – 16 have been canceled, without prejudice, due to the restriction requirement and subsequent election. These claims may be prosecuted in a divisional application.

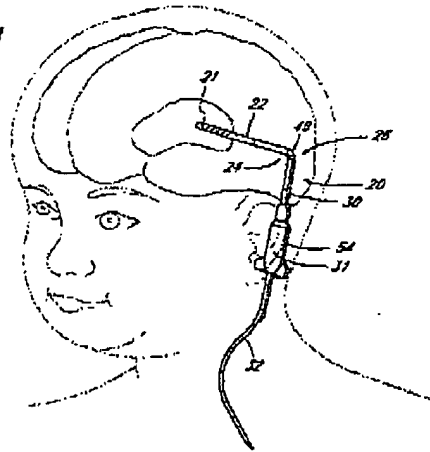
### Rejections Under 35 USC § 102

Claims 6 and 8 – 11 have been rejected under 102(b) as being anticipated by U.S. Patent No. 5,385,541, Kirsch et al (“Kirsch et al ‘541”). These rejections are respectfully traversed.

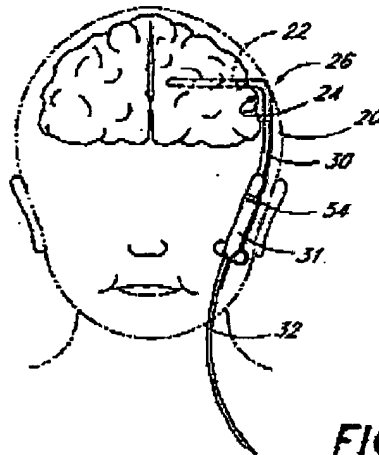
#### Kirsch et al ‘541

Kirsch et al ‘541 discloses a surgical shunt capable of revision and inspection on a minimal invasive basis. The shunt comprises a ventricle tube and drain tube connected by an elbow. The structure of the surgical shunt disclosed in Kirsch et al ‘541, as far as it is pertinent to the present rejections, is illustrated in the Figures below.

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**FIG. 1**

In Figure 1, the surgical shunt of Kirsch et al '541 is illustrated with a "corner" and is described as being "L-shaped."

**FIG. 2**

Similarly, Figure 2, also illustrated the surgical shunt of Kirsch et al '541 with a "corner" and is also described as being "L-shaped."

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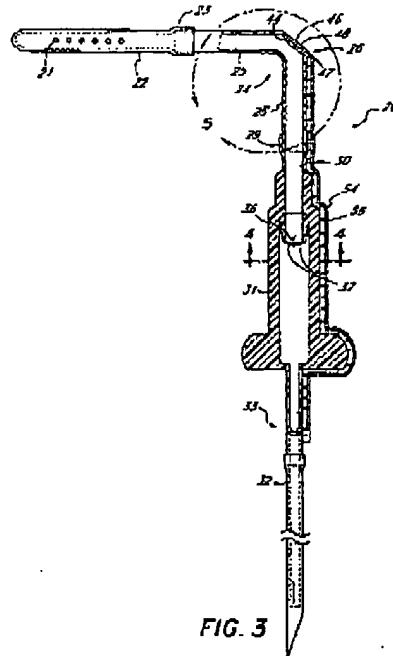


FIG. 3

Figure 3 provides a more view of the surgical shunt disclosed in Kirsch et al '541. The "elbow 24" of the shunt is even more clearly illustrated as being a right angle resulting in the "L-shaped shunt 20."

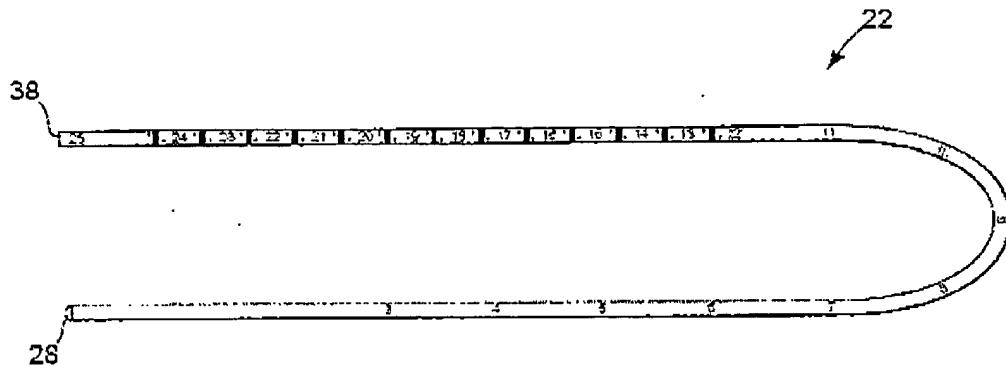
Each of the Figures and the accompanying description provide no doubt the only shunt configuration contemplated in Kirsch et al '541 is an "L-shaped shunt" with an "elbow" having a right angle, or ninety-degree, configuration.

Claims 6 and 8 - 11

Claims 6 and 8 - 11 all require a sagittal sinus shunt with a sinus portion of the catheter having approximately a one hundred eighty degree bend (see claim 6, lines 8 - 9).

Such one-hundred eighty degree bend is illustrated in Figure 4 is specification as shown below:

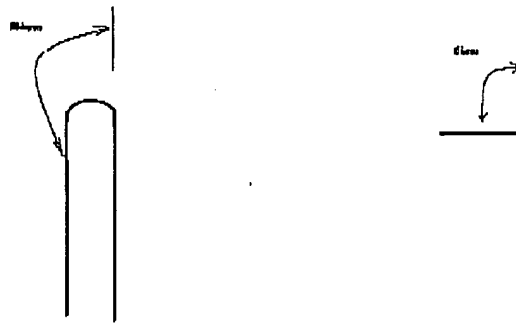
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**Fig. 4**

The one-hundred eighty degree bend required in claims 6 and 8 – 11 is completely different and is not anticipated by the ninety degree bend in the shunt disclosed in Kirsch et al '541.

The diagrams below additionally illustrate the difference between the claimed one-hundred eighty degree bend and the ninety degree bend disclosed in Kirsch et al '541.



The one-hundred eighty degree bend is illustrated in the left side drawing and the ninety degree bend is illustrated in the right side drawing. These bends, and resultant shapes, are markedly different and should not be confused with each other.

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The one-hundred eighty degree bend is important in positioning the sagittal sinus in a retrograde position. In fact, the bend actually makes it difficult for the surgeon to insert the sinus catheter in a position other than retrograde essentially ensuring proper placement of sinus catheter in sagittal sinus.<sup>1</sup>

The explicitly claimed one-hundred eighty degree bend is not shown in Kirsch et al '541 and is not anticipated by the disclosure in Kirsch et al '541. Further, Kirsch et al '541 makes no reference toward contemplating the incorporation of the claimed one-hundred eighty degree bend and does not render the claimed one-hundred eighty degree obvious.

It is respectfully submitted that the rejection of claims 6 and 8 – 11 over Kirsch et al '541 is improper and should be withdrawn.

Further, claims 8 – 11 each add additional limitations not shown or suggested in Kirsch et al '541. For these additional reasons, the rejections of claims 8 – 11 should also be withdrawn.

#### **Allowable Subject Matter**

Claims 1 – 5 have been allowed.

Applicants gratefully acknowledge the indication of allowable subject matter.

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<sup>1</sup> Specification, paragraph 36, lines 4 – 6

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### Summary

With the arguments presented, claims 1 – 6 and 8 – 11 should be allowable, this application should be in condition for allowance and a notice to that effect is earnestly solicited.

Respectfully Submitted,

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